

HIPAA

Administrative Simplification:

Local Public Health Department Impacts

*Transactions and Code Sets
Privacy and Security
of
Individually Identifiable Health Information*

HIPAA: Administrative Simplification

Local Public Health Department Impacts

Topics

- **Assessment of Covered Entity Status**
 - Process
 - Conclusions
- **Provider - a closer look**
- **Organizational Impacts**
- **Implementation Strategies**

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Assessment

Process

Question:

Are Local Public Health Departments Covered Entities?

Recap

- Health plans
- Health care providers - who *choose* to conduct covered transactions electronically
- Health care clearinghouses (translation)

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Assessment

Pursuing the Answer

? Determining which type of covered entity applies.

Approach:

- Assess each state program for covered entity status
- Assess health care activities for covered entity status

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Assessment

Process

Programs:

The Department of Health and Family Services' Division of Public Health receives state and federal funds that may be used to pay for the provision of health care.

These programs could qualify as health plans.

Activities:

- Local Public Health Departments provide or arrange for health care.
As health care providers they could come under HIPAA coverage
- Neither DHFS/DPH or the LPHDs translate data for the purpose of conducting the standard transactions.

See no role as a health care clearinghouse

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Assessment

Process: Health Plan Determinations

Are any of the DPH administered state or federal programs health plans under HIPAA?

1) The federal Department of Health and Human Services specifically excluded:

WIC, Ryan White, Government Immunization Programs

2) Applied the health plan exclusion test for government funded programs:

Only Wisconsin Well Woman Program currently has health plan status.

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Assessment

Process: Health Plan Determinations

What does this mean from a transaction point of view?

As a HIPAA covered health plan, WWWP will need to have the capacity to conduct all standard transactions electronically.

The WWWP billing system is operated by the state

Bringing this system into compliance is the responsibility of the state

It doesn't look like there will be direct systems impact on local health departments

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Assessment

Caution: Non-State Health Plan Determinations

The following health plan exclusion test should be applied to county and local programs.

A government program:

- A) Whose principal purpose is other than providing, or paying the cost of, health care; or
- B) Whose principal activity is:
 - (1) The direct provision of health care to individuals; or
 - (2) The making of grants to fund the direct provision of health care to persons.

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Assessment

Process: Health Care Provider Determinations

- (1) Applied the HIPAA definitions of health care provider and the medical services definitions referenced in the privacy rule.
- (2) Reviewed relevant statutes and rules.

Conclusion:

Public health nurses meet the definition of health care provider and perform activities meeting the definition of health care.

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HIPAA Provider

Provider - A Closer Look

Q. OK, I'm a health care provider. When does HIPAA apply?

A. *Generally speaking, the principle focus is the billing activity initiated by health care providers seeking payment from health plans.*

If you bill health plans on paper - HIPAA does not apply.

Electronic billing, however, is a standard transaction and all HIPAA regulations would apply to you. You become a "covered health care provider" and are subject to all rules implementing HIPAA administrative simplification mandates.

Note: *If you contract with billing services that bill electronically, then HIPAA applies to you and your billing service.*

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HIPAA Provider

Provider - A Closer Look

Q. How is a covered health care provider impacted?

A. *In several ways.*

(1) *Under the transaction rule, for those transactions you choose to conduct electronically, you will have to develop the capacity to utilize the named standards.*

This can be accomplished by:

- modifying existing systems*
- purchasing “translator” software*
- purchasing new HIPAA compliant software*
- engaging a clearinghouse*
- requiring your billing service to become compliant.*

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HIPAA Provider

Provider - A Closer Look

Q. How is a covered health care provider impacted?

A. *In several ways (cont'd).*

(2) *Under the privacy rule, your workforce and agent(s) behavior with protected information for treatment, payment and operational activities directly related to the provision of care will be regulated.*

This is accomplished through:

- confidential use and disclosure provisions*
- patients rights (notice, consent, access, etc.)*
- other organizational and administrative requirements*

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HIPAA Provider

Provider - A Closer Look

Q. How is a covered health care provider impacted?

A. *In several ways (cont'd).*

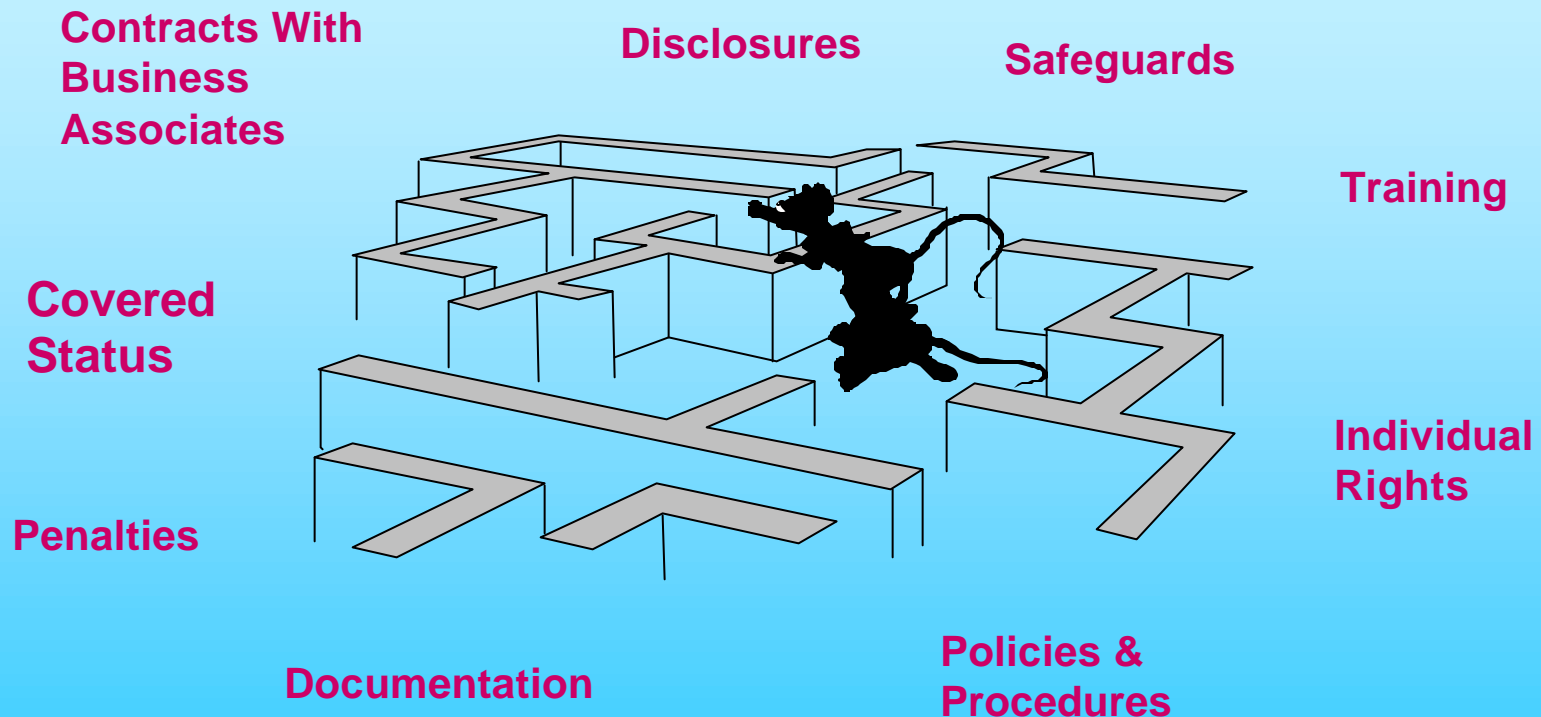
(3) *Under the proposed security rule, the storing, transmitting, and accessibility of your electronic data will be regulated.*

This is accomplished by setting Technical, Physical and Administrative requirements for maintaining the security and integrity of electronic health information.

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Organizational Impacts



OK. So, my health care providers are covered...
But what about the rest of the agency?

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Organizational Impacts

Agencies with covered and non-covered activities

The Privacy rule is very clear that:

? Covered Entities must be compliant regardless of whether they are separate legal entities or a component of an organization with a mix of health and non-health functions.

? Those areas of an agency that perform covered health plan, health care clearinghouse or health care provider functions are Covered Entities.

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Organizational Impacts

Local Public Health Department Profile

Operate as:

✓ Health Care Provider

- *Public health authority* -

“...means an agency or authority of the United States, a State, ..., or a person or entity acting under a grant of authority from or contract with such public agency, ..., that is responsible for public health matters as part of its official mandate.

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Organizational Impacts

Local Public Health Department Profile

Under HIPAA, a public health authority that is authorized by law to:

collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to:

- ✗ the reporting of disease, injury, vital events such as birth or death,
- ✗ the conduct of public health surveillance,
- ✗ public health investigations, a
- ✗ and public health interventions; ...

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Organizational Impacts

Local Public Health Department Profile

- *LPHDs can continue to collect and receive information* from HIPAA covered health plans and health care providers without those entities needing to obtain consent, authorization or providing individuals the opportunity to object to such releases.*

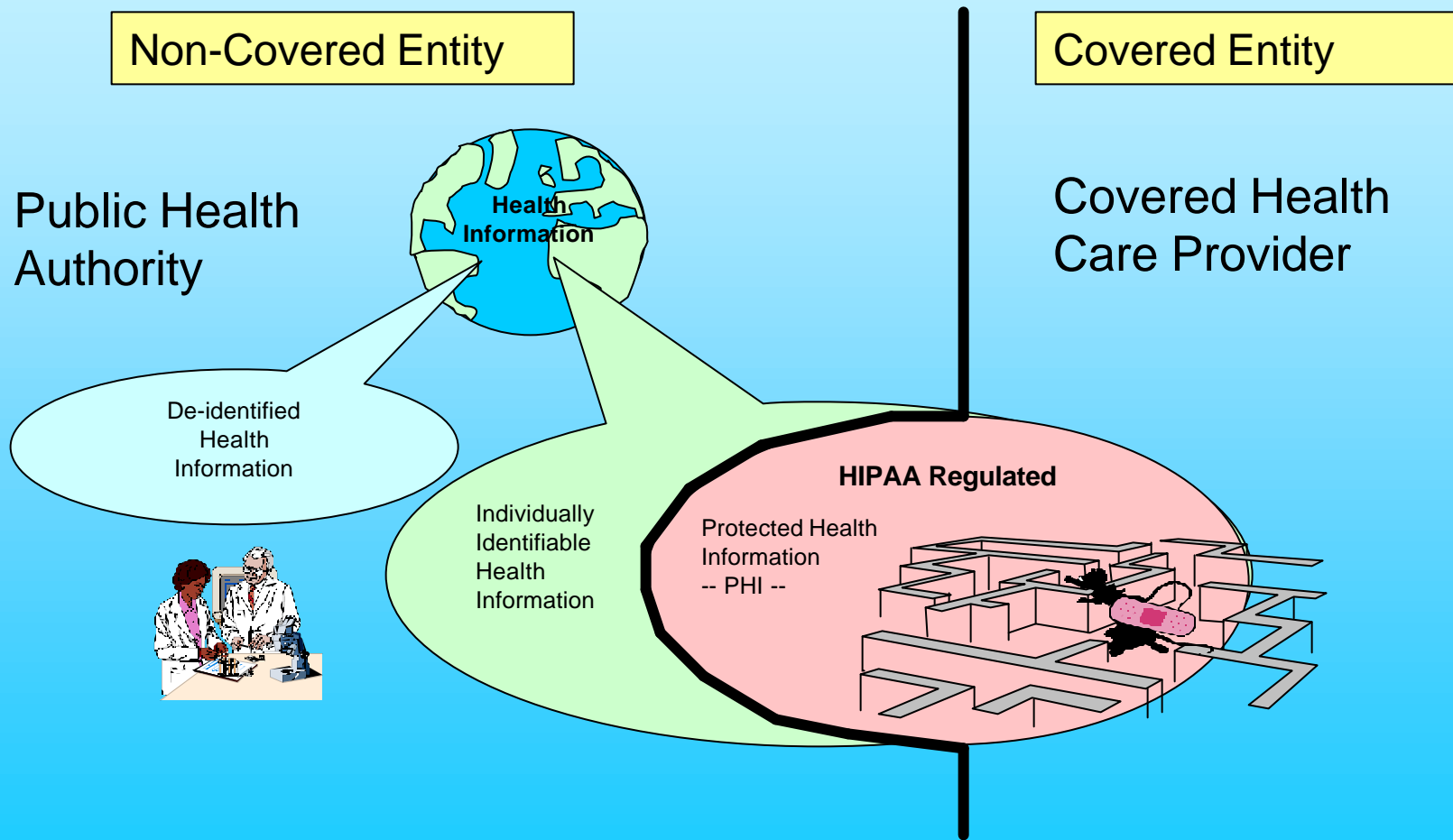
** within the context of other applicable laws.*

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Implementation Strategies

Privacy Rule Compliance



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Implementation Strategies

Privacy Rule Compliance

Q. *What is the agency's role and obligation when some units or divisions perform covered health care functions and some do not?*

A. Very little specific guidance. However:

- Federal Department of Health and Human Services preamble discussion does say: *"We expect that in most cases, government agencies that run health plans or provide health care services would typically meet the definition of a 'hybrid entity'..."*
- *Hybrid Entity*: A single legal entity that is a covered entity and whose health care functions are not its primary mission.
 - Multi-functional organizations with covered entity components

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Implementation Strategies

How does this “hybrid” structure work?

“Agencies will be required to designate the health care component or components ...”

Covered components:

Health Care Providers - performing any one of the named transactions electronically

Support services?:

Those business units that perform services or functions for or on behalf of a covered component and involve the use of Protected Health Information

Non-covered components:

Any function not performing the above

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Implementation Strategies

Agency as Hybrid Covered Entity

Ensure covered functions are compliant

Compliance and Enforcement provisions apply to the hybrid as a whole.

Policy and procedure provisions apply (164.530)

Must designate the components that are part of one or more health care components

"The covered entity remains responsible for the actions of its workforce."

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Implementation Strategies

Covered Health Care Component

Covered Provider, Health Plan and Clearinghouse components are directly subject to all Privacy provisions.

All Covered Entity, Provider & Health Plan references mean the component as appropriate.

All use and disclosure requirements apply.

All patients rights requirements apply.

All applicable administrative requirements apply.

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Implementation Strategies

Non-Health Care Components

- Not a covered entity.
- Strictly speaking rule provisions (i.e., use and disclosure provisions, administrative requirements) would not apply.
- Agency as a Hybrid Covered Entity would still be responsible for the actions of these workforce members.

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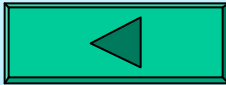
Implementation Strategies

Hybrid Strategy: Bottom Line

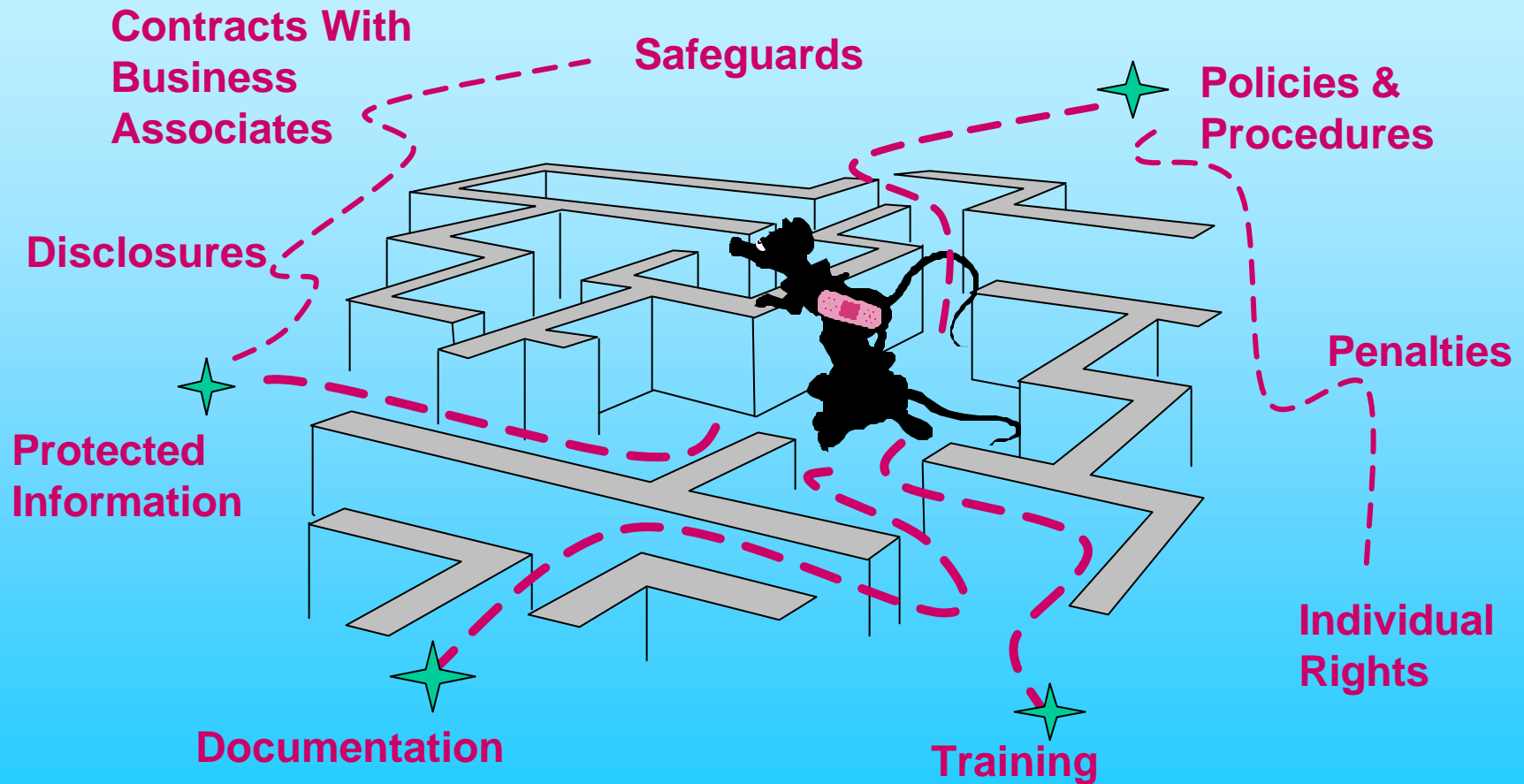
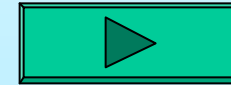
- Apply for an extension for transaction rule compliance
- Insulate the non-covered functions
- Consider organizational efficiencies in making designations.
 - This is not a “one size fits all” or “mathematically precise” situation.
- Document designations and the basis for the decisions.

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Action Planning



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HIPAA Resources

- Copies of this presentation:
 - The DHFS “HIPAA NOW” web site
 - www.dhfs.state.wi.us/hipaa
 - Click on HIPAA Happenings
- Other sites or resources
 - Click on Helpful Links

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Questions?

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